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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,550	08/22/2003	Kevin Wade Jameson	CFSTP015	9133
21912	7590	06/14/2006	EXAMINER	
VAN PELT, YI & JAMES LLP			RADTKE, MARK A	
10050 N. FOOTHILL BLVD #200				
CUPERTINO, CA 95014			ART UNIT	PAPER NUMBER
			2165	

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/645,550	JAMESON, KEVIN WADE	
	<b>Examiner</b>	<b>Art Unit</b>	
	Mark A. Radtke	2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 11 July 2005.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-21 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-21 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 August 2003 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/22/03.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Remarks***

1. Examiner notes Applicant's letter dated 16 January 2004 re Voluntary Amendment. Examiner thanks Applicant for attempting to expedite the application process. Although the letter has been considered, no amendment has been made because no specific amendments citing specific page and line numbers to be amended have been cited. Applicant's definitions have helped the Examiner focus the prior art search, but the Examiner's rejection is based on the claims in light of the specification as filed. Examiner respectfully submits that Applicant's definition of "collection" (section 4.2 of "Voluntary Amendment") contains the word "collection" twice, creating what is colloquially called a "circular definition" and which may be considered vague if it were supported in the specification. Applicant is reminded that amendments to the specification after filing may constitute "new matter."

### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d

1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1, 8 and 15 of the instant application are provisionally rejected under the judicially created doctrine of double patenting over claims 1 and 9 of copending Application No. 10/645,487 (Jameson, U.S. Publication No. US 2005/0044095 A1).

Claims 1, 8 and 15 of the instant application are considered obvious over claims 1 and 9 of Patent Application No. 10/645,487 (Jameson, U.S. Publication No. US 2005/0044095 A1).

"A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or anticipated by, the earlier claim. *In re Longi*, 759 F.2d at

896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); *In re Berg*, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus)."  
**ELI LILLY AND COMPANY v BARR LABORATORIES, INC.**, United States Court of Appeals for the Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to claim 1, line 2, the phrase "on or with the aid of a computer" renders the claim indefinite. It is unclear which steps are performed on a computer and which are not.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims *1-21 TM 6/12/06.* \*\*\* are rejected under 35 U.S.C. 102(e) as being anticipated by Sundararajan (U.S. Patent 6,487,577).

As to claim 1, Sundararajan teaches a Collection Processing System process for performing symbolic task operations on collections, to be performed on or with the aid of a computer (see Abstract), comprising the following steps:

(a) receiving a collection symbolic job request from a request originator to perform a collection processing operation on a collection reference expression (see figure 6a and see column 7, lines 58-60, where “request originator” is read on “client” and where “collection processing operation” is read on “job”),

(b) performing said collection processing operation on said collection reference using a collection processing system means (see column 7, lines 15-17, where “performs” is read on “executes”), and

(c) returning results of said collection processing operation to said request originator (see column 7, lines 60-62),

wherein a collection symbolic job request is comprised of a symbolic task name and a collection reference expression, and wherein a collection is comprised of a

collection specifier, including a collection type indicator, and optional collection contents (see column 3, lines 51-62),

thereby solving the Collection Processing System Problem and improving the productivity of people that perform complex computational tasks on large sets of collections (This limitation describes the problem to be solved by the invention and will not be given patentable weight. For the same reason, the last limitation of every claim in the instant application will not be given patentable weight).

As to claims 2, 9 and 16, Sundararajan teaches wherein

(a) said step of performing said collection processing operation uses a collection symbolic job expander means for expanding said collection reference into a list of particular individual collections, to help fulfill the computational intent of said collection symbolic job request (See column 3, lines 51-61, where “collection symbolic job expander” is read on “job type identification”. Specifically, the database look-up portion of the citation discloses an ID number which can be used to “provide the SC computer with information on [...] the job”. See also column 4, lines 14-28.),

thereby solving the Collection Job Expansion Problem, and thereby improving human productivity by freeing people from the need to specify long lists of individual collections in collection processing requests.

As to claims 3, 10 and 17, Sundararajan teaches wherein

(a) said step of performing said collection processing operation uses a collection symbolic job expander means for expanding said collection reference into a list of job triplets each comprised of an individual collection name, a computing platform name, and a processing dependency visit order value, to help fulfill the computational intent of said collection symbolic job request (see column 3, lines 51-61 and see figure 7 and see column 8, lines 44-64),

thereby solving the Collection Platform Assignment Problem, solving the Collection Job Ordering Problem, and thereby improving human productivity by freeing people from the need to specify long lists of individual collections, computing platforms, and visit order values in collection processing requests.

As to claims 4, 11 and 18, Sundararajan teaches wherein

(a) said step of performing said collection processing operation uses a collection processing system job dispatcher means for maintaining a proper execution ordering among collection symbolic job requests and lists of expanded job triplets, to help fulfill the computational intent of said collection symbolic job request (see figure 7 and see column 8, lines 44-64),

thereby solving the Collection Job Scheduling Problem, and thereby improving human productivity by freeing people from the need to manually determine and control proper execution order among job triplets derived from collection reference expressions.

As to claims 5, 12 and 19, Sundararajan teaches wherein

(a) said step of performing said collection processing operation uses a collection processing system job dispatcher means for expanding a first-level symbolic task name into a sequence of second-level task part statements that represent the computational intent of said collection symbolic job request (see column 7, lines 1-12),

thereby helping to solve the Collection Process Execution Problem, and thereby improving human productivity by freeing people from the need to manually determine, manage, and execute particular computer commands to carry out the computational intent of said collection symbolic job request.

As to claims 6, 13 and 20, Sundararajan teaches wherein

(a) said step of performing said collection processing operation uses a collection executable process calculation means for dynamically calculating a set of detailed executable commands that can help to fulfill the computational intent of said collection symbolic job request (see column 4, lines 22-28),

thereby solving the Collection Process Execution Problem, solving the Platform Dependent Processing Task Problem, and thereby improving human productivity by freeing people from the need to manually calculate detailed sequences of platform-dependent computer commands to carry out complex collection processing operations.

As to claims 7, 14 and 21, Sundararajan teaches wherein

(a) said step of performing said collection processing operation uses a collection processing system executable process execution means to execute platform-dependent

computing commands to fulfill the computational intent of said collection symbolic job request (see column 5, lines 14-19),

thereby helping to solve the Collection Process Execution Problem, and thereby improving human productivity by freeing people from the need to manually execute sequences of computer commands on multiple platforms to carry out the computational intent of said collection symbolic job request.

As to claim 8, Sundararajan teaches a programmable Collection Processing System device for performing symbolic task operations on collections (see Abstract), whose actions are directed by software executing a process comprising the following steps:

For the remaining steps of this claim applicant(s) is/are directed to the remarks and discussions made in claim 1 above.

As to claim 15, Sundararajan teaches a computer readable memory, encoded with data representing a Collection Processing System computer program (see Abstract), that can be used to direct a computer when used by the computer, comprising:

For the remaining steps of this claim applicant(s) is/are directed to the remarks and discussions made in claim 1 above.

***Additional References***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of art with respect to distributed collection management in general:

Patent/Pub. No.	Issued to	Cited for teaching
US 6195676 B1	Spix; George A. et al.	Scheduling
US 6226644 B1	Ciscon; Larry A. et al.	Intercomputer communication

***Conclusion***

9. Any inquiry concerning this communication or earlier communications should be directed to the examiner, Mark A. Radtke. The examiner's telephone number is (571) 272-7163, and the examiner can normally be reached between 9 AM and 5 PM, Monday through Friday.

If attempts to contact the examiner are unsuccessful, the examiner's supervisor, Jeffrey Gaffin, can be reached at (571) 272-4146.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at (800) 786-9199.



maxr  
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11 June 2006



**HOSAIN ALAM**  
**SUPERVISORY PATENT EXAMINER**